

GPS Act: Section-by-Section Summary

- **Section 1** Short Titles – “Geolocational Privacy and Surveillance” or “GPS” Act.
- **Section 2** Protection of Geolocation Information – This section creates a new chapter 120 of Title 18 of the US Code. This chapter is modeled after existing sections of Title 18 that govern wiretapping and other types of electronic surveillance. This new chapter would have five subsections, numbered 2601-2605.
 - **Section 2601** – Includes several definitions that are included in the criminal wiretapping statute (18 USC 2510). Also defines the terms ‘geolocation information’, ‘geolocation information service’ and ‘wireless communication device’. Specifies that in this context ‘geolocation information’ refers only to information generated by or derived from wireless devices and tracking devices, and not to other types of information (such as area codes) that could potentially be used to help determine an individual’s location.
 - **Section 2602** – Creates rules to govern the interception and disclosure of geolocation information. These rules are modeled after the federal wiretapping statute (18 USC 2511). They would specifically require a warrant for the acquisition of geolocation information, subject to a list of exceptions. (Most of these exceptions track the exceptions in the wiretapping statute. A few are new, including the exception for theft of the device, or the exception for circumstances where the safety of the device’s owner is threatened.)
 - **Section 2603** – Prohibits unlawfully intercepted geolocation information from being used as evidence. Modeled after the prohibition on the use of unlawfully intercepted phone calls in the federal wiretapping statute (18 USC 2515).
 - **Section 2604** – Creates an emergency-situations exception to the warrant requirement. Modeled after the emergency-situations section of the federal wiretapping statute (18 USC 2518(7)).
 - **Section 2605** – Permits individuals who have been unlawfully wiretapped to recover damages in civil court. Modeled after the civil damages section of the wiretapping statute (18 USC 2520).
- **Section 3** Requirement for Search Warrants to Acquire Geolocation Information – Modifies the Federal Rules of Criminal Procedure to make it possible to obtain a warrant for geolocation information.
- **Section 4** Fraud and Related Activity in Connection with Obtaining Geolocation Information – Makes it illegal to obtain an individual’s geolocation information by making fraudulent statements to a telecommunications carrier, or by accessing the carrier’s customer account records without permission. This modifies an existing statute covering fraudulent access to phone records.
- **Section 5** Statement of Exclusive Means of Acquiring Geolocation Information – States that this legislation and the Foreign Intelligence Surveillance Act (which governs intelligence investigations) are the only means by which geolocation information may be lawfully acquired.